DOCUMENT RESUME

ED 157 147 EA 010 681

TITLE	Liability Insurance in California Public Schools.
INSTITUTION	California State Dept. of Education, Sacramento.
PUB DATE	78
NOTE	52p.
AVAILABLE FROM	California State Department of Education, P.O. Box 271, Sacramento, California 95802 ($2.00)
EDRS PRICE	MF-$0.83 Plus Postage. HC Not Available from EDRS.
DESCRIPTORS	Elementary Secondary Education; *Insurance Programs; Junior Colleges; Questionnaires; *State Surveys; Statistical Data; *Tables (Data)
IDENTIFIERS	California; Liability Insurance

ABSTRACT

In the mid-1970s, an increased number of high-cost liability lawsuits combined with other financial difficulties insurance companies were experiencing to cause drastic increases in insurance rates for schools and a reluctance on the part of insurance carriers to provide liability coverage. Questionnaires returned by county and district school superintendents and superintendents of community college districts in California reported current levels of liability coverage. The data, covering a period from 1974-75 through 1977-78, reveal that, although premiums have increased over 300 percent, the market for primary coverage is becoming more limited and insurance companies prefer providing excess coverage to basic coverage. While claims made against insurance were higher than the cost of premiums in 1974-75, by 1976-77 claims amounted to only half the cost of premiums. High school districts, however, consistently made claims higher than their premium costs. Other data, shown in extensive tables, cover deductibles and significant exclusions of coverage. County-wide insurance policies in three counties are treated separately. The questionnaire is included, as are the respondents' suggestions for solutions to the insurance problem. (Author/PGD)

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Liability Insurance in California Public Schools

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EA 010 681

CALIFORNIA STATE DEPARTMENT OF EDUCATION
Wilson Riles - Superintendent of Public Instruction
Sacramento - 1978

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This publication, which was edited and prepared for photo-offset production by the Bureau of Publications, California State Department of Education, was published by the Department, 721 Capitol Mall, Sacramento, CA 95814.

Printed by the Office of State Printing and distributed under the provisions of the Library Distribution Act

1978

Copies of this publication are available for $2 each, plus sales tax for California residents, from Publications Sales, California State Department of Education, P.O. Box 271, Sacramento, CA 95802. A list of other publications that are available from the Department, **Selected Publications of the California State Department of Education,** can be obtained by writing to the same address.

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I. Introduction

Rationale for the Study

Over the past few months, Department of Education personnel have received numerous telephone calls and letters from school administrators concerning the rising costs and decreasing availability of school liability insurance. In most cases, these administrators urged the Department to take a leadership role in attempts to solve the liability insurance problems.

On June 22, 1977, Department officials invited a group of 17 interested parties to Sacramento to discuss the issues. Those in attendance represented the California Association of School Business Officials; the Department of Navigation and Ocean Development; the California Association for Health, Physical Education, and Recreation; the California Community Colleges; and the State Department of Education. This group decided that no positive action could be taken until valid, current information on liability insurance was available. The group further decided that a survey instrument should be constructed and mailed to educators and educational agencies throughout the state for the purpose of collecting the needed data.

Several members of the group worked for a number of months to construct the survey instrument. The resulting questionnaire and instructions for completing it were mailed in mid-September to all county and district superintendents of schools, superintendents of community college districts, and directors of child care centers. A copy of the questionnaire is included in the appendixes of this report.

The collection of data for this report involved a cooperative effort between local educational agencies and the Department of Education. To date this report represents the most comprehensive study that has been conducted concerning liability insurance in California school districts. Other studies have been made of liability insurance as it relates to public entities in general, and the reader is urged to examine them also.

Liability Insurance: The Problem

The increasing costs of liability insurance and the difficulties of obtaining such insurance are among the most critical problems that school districts face today in maintaining their risk management programs. What has brought about the tremendous rise in premium costs? Why have insurance carriers become so reluctant to provide coverage to school districts? While the answers to these questions are complex, one can cite at least three major factors in attempting to provide an explanation:

1. A dramatic increase in the number of lawsuits brought against districts for personal injury, death, or property damage--This

increase, viewed with alarm by many insurance companies, was precipitated, at least in part, by "legislative erosion" of the traditional statutory immunities of public entities, including school districts, regarding liability claims. In short, school districts are no longer immune from liability suits.

2. Large awards by the courts and long delays in cases' being heard in the courts--Because court schedules are so crowded, years may be required for a case to be heard to its conclusion. In the meantime, insurance companies must reserve monies to meet those claims, and their legal expenses increase. Consequently, many insurance companies have found that settling (paying) claims out of court is both less time consuming and less costly than going through the formal legal process. Insurance companies cite poor claims-loss ratios as the main reason for their decreased activity in providing liability insurance to public entities.

3. The complex financial structure of the insurance business--The financial stability of insurance companies is primarily dependent upon two factors: (1) income from premiums; and (2) income derived from investing those premiums in stocks and other types of investments. To understand better the effect of this structure on school districts and their liability insurance, one must look at the state of the insurance business from 1969 to the present.

   During the years 1969--1973, investments in the stock market were yielding good returns. To take advantage of the favorable market conditions, insurance companies began to seek as much business as possible from clients, such as school districts, who needed significant amounts of coverage. In this way, the insurance companies were able to increase their cash incomes from premiums, which they subsequently invested. At the same time, the competition for sales among companies increased, enabling school districts to secure bids when seeking to purchase coverage. Because the insurance companies wished to obtain as many dollars as possible to invest, they often were willing to write policies below cost. When the companies finally realized that they had priced their premiums too low to cover losses, the school insurance business got a "bad-risk" image. (The reader must remember that insurance companies hope to be able to cover losses with only a portion of the premiums they charge. The remainder they use for administrative expense and profit.)

   Another factor involved in the insurance companies' writing premiums too low was their accounting procedures. Generally, insurance companies do not show earned income on their books until the end of the year. And, at any given time, most companies do not know the total of their incurred claims (a happening on which a payment is anticipated but on which a final settlement has not been reached), claims paid, and operating expenses. In addition, some companies do not maintain an adequate reserve to cover claims "incurred but not reported" (happenings that have occurred but that have

not yet been reported to the insurer). Thus, when companies establish their premium rates throughout the year, they may do so on the basis of data that are not up to date; that is, their estimate may be partly a guess.

In 1974 insurance companies experienced claim losses that were greater than they had expected, and the stock market declined, thereby creating a crisis in the insurance business. Insurance companies lost $2.5 billion in claims incurred, claims paid, and operating expenses, plus additional losses on their investments.

As a result of these losses, insurance companies began increasing their premiums late in 1974. By the end of 1975, however, their cumulative losses over the two-year period (1974 and 1975) totaled $4.5 billion. Settlements in suits against public entities were a significant factor in these losses. Fortunately for the insurance companies, the stock market improved in 1975, and their profits from investments were enough to hold their overall losses for the two years to $2 billion.

During the first six months of 1976, insurance companies lost $2.5 billion. Again they increased their premiums in an attempt to offset such losses. During the period from the last few months of 1975 through the early months of 1976, the premiums charged to public business in general increased by an average of 30--50 percent. The increases for many high-risk public entities were even higher. When they found that they were unable to pay such premiums, or even to find companies that were willing to provide coverage, many of these entities were forced to self-insure (assume most or all of their own risk).

State regulations in California limit the amount of "new" insurance that companies may issue. Because their accounting procedures are so complex, many companies have been in danger of issuing too much insurance, thus putting them in a position in which they could lose their license to operate in California or in which they could at least lose their financial rating in the industry. Many companies began reducing the amount of coverage they would provide to school districts and became more selective about the types of risk they would insure against. They began to shift their business to other markets that they considered to be lower risk markets than school districts. (No data are available to substantiate that school districts are indeed higher risks than other entities.) The fact that insurance companies have all the business they need, and can legally handle, without relying on tremendous sales to school districts, has led to the elimination of bidding among the companies. Districts must now pay whatever premiums they can negotiate with a carrier, or they can self-insure.

The trend of increased premiums and a reduced market for school liability insurance continues, and no relief is in sight.

General Information About the Study

The questionnaire asked for information for the years 1974-75 through 1977-78. Many districts did not have the requested information available in their files, so they forwarded the questionnaire to their insurance broker for completion. In some cases, the brokers could not supply all of the information for all of the years requested because they had not been the agent of record for the district for each of those years. Claims information was especially difficult for some districts to obtain.

Not all offices of county superintendents of schools were able to supply liability insurance information because such insurance is included in the county policy, and the premiums are included in the lump sum payment that the county board of supervisors makes.

The data for some districts could not be provided on an individual district basis because they were covered under a blanket policy for their county. In these cases, the districts pay premiums to the county on a "per a.d.a." basis. The premiums charged to the small districts in these groups would not ordinarily pay for the amount of coverage they receive under the blanket policy. The statistics for these districts are treated separately in this report.

The computer program that was used in the study was designed to "accept" data for districts and other agencies with up to three layers of excess coverage. ("Basic," or "primary coverage," is the first dollar amount in which coverage is provided. Such coverage may be in the form of self-insurance or insurance purchased from a carrier. "Excess coverage" is defined as the coverage that is provided after a policy in a basic amount has been exhausted. Districts may have to purchase such coverage in various amounts and in separate policies from several companies. Each of the separate policies represents an "excess layer" of coverage.) Districts that reported more than three layers of excess coverage are treated separately in this report.

Six districts that were maintaining a self-insurance reserve (SIR) are also treated in a separate section in this report. In each of those districts, the reserve was a restricted reserve to be used for primary coverage. (A restricted reserve is authorized by code and may be used only to pay specific claims. It may <u>not</u> be drawn upon for any purpose other than loss reimbursement.) Each of the six districts also had purchased excess layers from insurance carriers. The districts in this group represent a substantial portion of the statewide a.d.a.

When the information submitted on the questionnaire was incomplete or questionable, the district and/or the district's broker was called for clarification. No estimates were included in the statistics. For instance, if the limits of coverage or the premiums paid were not available for 1977-78 as of the cut-off date for data input, the information for the entire year was excluded. Also, in those cases in which liability insurance could not be separated from fire coverage and extended coverage, the data were not used.

Finally, the information provided by child care centers was not included in this report. Many of the centers are operated at colleges, universities, churches, or other public or private facilities not controlled by school districts. As a consequence, their liability insurance coverage is often included in a policy that covers more than just the center, and the cost for insuring the child care center cannot be separated.

II. Analyses of Data Included in the Computer Program

Liability Insurance Limits and Premiums Paid

Table 1 shows liability insurance limits and premiums paid statewide for each of the years 1974-75 through 1977-78. The limits and premiums paid are presented by type of entity (elementary school district, high school district, and so forth) and by layers of excess coverage. The percent of increase or decrease in limits and premiums paid from 1974-75 through 1977-78 are also shown.

The data show that the amount of primary coverage for elementary, high school, and community college districts has decreased significantly over the four-year span and that the primary coverage for unified districts and offices of county superintendents of schools has increased. While the amounts of primary coverage have generally decreased, coverage has increased for the first, second, and third layers of excess coverage. It appears that insurance companies are less willing to provide high primary coverage, thereby forcing districts to go to additional companies to secure, by layers, the amount of insurance deemed adequate.

The total limits of coverage for elementary school districts decreased by 12 percent over the four-year span; the total premium cost for such districts, however, increased by 345 percent. For high school districts the total coverage limits increased 324 percent, and the premiums paid increased 320 percent. High school districts were the only entity for which the increase in coverage limits was greater than the increase in premiums paid. Community college districts had a 1 percent increase in coverage limits and a 414 percent increase in premiums paid. Similarly, a 4 percent increase in coverage limits and a 413 percent increase in premiums paid were noted for unified school districts. For offices of county superintendents of schools, limits increased 316 percent, and premiums paid increased 389 percent.

Two obvious conclusions that can be drawn from the data in Table 1 are (1) the market for primary coverage is becoming more limited; and (2) the insurance companies would prefer to provide excess coverage. Therefore, school districts and other entities will have to find other means, such as self-insurance reserves, to provide at least some of their primary coverages.

Distribution of Liability Insurance Limits

Table 3 shows the number of respondents and the amounts they reported within specified dollar categories for primary coverage and excess coverage through three layers. This table also shows the four-year trend of total amounts of primary coverage decreasing and amounts of excess coverage increasing.

The primary coverages from 1974-75 through 1977-78 decreased by 12 percent, while the first layer coverage for the same period increased by 13 percent. The

TABLE 1
Total Liability Insurance Limits and Premiums Paid,
by Entity, 1974-75 Through 1977-78

Entity	Amount of limit or premium, by fiscal year*				Percent of increase or decrease, 1974-75--1977-78
	1974-75	1975-76	1976-77	1977-78	
Elementary school districts					
Liability limits					
Primary	$1,179,732	$768,711	$786,327	$681,167	-42
Excess--first layer	419,705	525,831	515,457	516,851	+23
Excess--second layer	9,000	22,000	98,200	187,700	+1,986
Excess--third layer	0	6,000	27,500	33,500	+33,500
Premiums paid					
Primary	1,677,307	2,703,748	4,336,662	6,050,425	+261
Excess--first layer	143,763	254,723	692,158	1,440,030	+902
Excess--second layer	4,071	13,487	144,692	534,640	+13,033
Excess--third layer	0	1,427	36,922	90,985	+90,985
Liability limits totals	1,608,437	1,322,542	1,427,484	1,419,218	-12
Premium totals	1,825,141	2,973,385	5,210,434	8,116,088	+345
High school districts					
Liability limits					
Primary	191,500	191,414	175,908	138,128	-28
Excess--first layer	130,600	194,400	222,200	205,650	+57
Excess--second layer	16,000	39,000	341,000	346,000	+2,063
Excess--third layer	0	5,000	742,500	744,500	+744,500
Premiums paid					
Primary	1,398,591	2,158,074	3,448,089	4,347,695	+211
Excess--first layer	68,875	233,327	725,642	1,243,031	+1,705

* Premiums are shown in dollars, and limits are shown in thousands of dollars.

TABLE 1 (Continued)
Total Liability Insurance Limits and Premiums Paid,
by Entity, 1974-75 Through 1977-78

Entity	Amount of limit or premium, by fiscal year*				Percent of increase or decrease, 1974-75--1977-78
	1974-75	1975-76	1976-77	1977-78	
High school districts (cont.)					
Excess--second layer	$9,440	$59,096	$151,300	$489,543	+5,086
Excess--third layer	0	10,630	44,506	129,307	+129,307
Liability limits totals	338,100	429,814	1,481,608	1,434,278	+324
Premium totals	1,476,906	2,461,127	4,369,537	6,209,576	+320
Community college districts					
Liability limits					
Primary	167,700	150,000	122,075	75,800	-55
Excess--first layer	194,500	218,400	164,575	152,700	-21
Liability limits					
Excess--second layer	72,000	120,000	129,000	174,500	+142
Excess--third layer	10,000	20,000	47,950	64,000	+540
Premiums paid					
Primary	904,720	1,397,764	2,201,188	3,043,880	+236
Excess--first layer	108,753	222,302	537,474	1,300,991	+1,096
Excess--second layer	16,440	64,965	353,789	790,607	+4,709
Excess--third layer	8,500	5,500	67,766	199,305	+2,245
Liability limits totals	444,200	508,400	463,600	467,000	+1
Premium totals	1,038,413	1,690,531	3,160,217	5,334,783	+414
Unified school districts					
Liability limits					
Primary	672,601	679,300	660,600	760,500	+13
Excess--first layer	429,600	558,300	496,600	434,300	+1
Excess--second layer	70,500	172,500	286,500	361,200	+412

*Premiums are shown in dollars, and limits are shown in thousands of dollars.

TABLE 1 (Continued)
Total Liability Insurance Limits and Premiums Paid,
by Entity, 1974-75 Through 1977-78

Entity	Amount of limit or premium, by fiscal year*				Percent of increase or decrease, 1974-75--1977-78
	1974-75	1975-76	1976-77	1977-78	
Unified school districts (cont.)					
Excess--third layer	$16,000	$44,000	$98,000	$128,000	+700
Premiums paid					
Primary	3,365,078	5,992,436	9,835,068	12,270,912	+265
Excess--first layer	332,362	911,026	2,206,567	4,131,123	+1,143
Excess--second layer	32,699	187,281	931,045	2,310,841	+6,967
Excess--third layer	5,050	26,467	190,340	458,428	+8,978
Liability limits totals	1,188,701	1,454,100	1,541,700	1,684,000	+4
Premium totals	3,735,189	7,117,210	13,163,020	19,171,304	+413
Offices of county superintendents of schools					
Liability limits					
Primary	50,200	58,400	56,900	23,450	-53
Excess--first layer	44,000	65,000	63,500	68,250	+255
Excess--second layer	10,000	11,000	18,000	22,500	+125
Excess--third layer	0	0	5,000	12,000	+12,000
Premiums paid					
Primary	175,406	310,464	605,239	651,638	+272
Excess--first layer	18,479	36,299	83,873	191,013	+934
Excess--second layer	3,150	5,699	14,999	90,288	+2,766
Excess--third layer	0	0	2,500	29,761	+29,761
Liability limits totals	104,200	134,400	143,400	433,200	+316
Premium totals	197,035	352,462	706,611	962,700	+389

*Premiums are shown in dollars, and limits are shown in thousands of dollars.

Table 1 (Concluded)
Total Liability Insurance Limits and Premiums Paid,
by Entity, 1974-75 Through 1977-78

Entity	Amount of limit or premium, by fiscal year*				Percent of increase or decrease, 1974-75--1977-78
	1974-75	1975-76	1976-77	1977-78	
Totals					
Liability limits					
Primary	$ 2,261,733	$ 1,847,825	$ 1,801,810	$1,678,245	-26
Excess--first layer	1,218,405	1,561,931	1,462,332	1,377,751	+13
Excess--second layer	177,500	364,500	872,700	1,091,900	+515
Excess--third layer	26,000	75,000	920,950	982,000	+3,677
Premiums paid					
Primary	7,521,102	12,562,486	20,426,246	26,364,550	+251
Excess--first layer	672,232	1,657,677	4,245,714	8,306,196	+1,136
Excess--second layer	65,800	330,528	1,595,825	4,215,919	+6,307
Excess--third layer	13,550	44,024	342,034	907,786	+6,600
Liability limits totals	3,683,638	3,849,256	5,057,792	5,437,696	+48
Premium totals	$ 8,272,684	$14,594,715	$26,609,819	$39,794,451	+381

*Premiums are shown in dollars, and limits are shown in thousands of dollars.

second layer coverage increased by 515 percent, and the third layer coverage increased by 3,677 percent.

The distribution also shows somewhat of a trend for more districts to accept lower limits as an adequate amount of liability insurance. For instance, the number of districts that had $100,000 or less in primary insurance increased from 10 in 1976-77 to 45 in 1977-78. In the $101,000 to $500,000 range, the increase was from 317 districts in 1976-77 to 376 districts in 1978.

As shown in Table 4, the state total for liability insurance limits for elementary school districts, high school districts, and unified school districts increased by $1,315,554,000 from 1974-75 through 1976-77, which was an increase of 42 percent. For the same period, the premiums paid by these districts increased by $15,705,755, or 223 percent.

For the period 1974-75 through 1977-78, the liability insurance limits increased $1,402,258,000, or 45 percent. During this period, the increase in premiums paid was $26,459,732, or 376 percent.

The reader should use caution in attempting to make comparisons of costs between counties. The pricing of insurance is based on factors that vary from insurance company to insurance company and from county to county.

TABLE 2
Total Excess Coverage, by Entity, 1974-75 Through 1977-78

Entity	Amount of excess coverage, by fiscal year*			
	1974-75	1975-76	1976-77	1977-78
Elementary school districts	$428,705	$553,831	$641,157	$738,051
High school districts	146,600	238,400	1,305,700	1,296,150
Community college districts	276,500	358,400	341,525	391,200
Unified school districts	516,100	774,800	881,100	923,500
Offices of county superintendents of schools	54,000	76,000	86,500	102,750
Totals	$1,421,905	$ 2,001,431	$3,255,982	$3,451,651

*Excess coverage is shown in thousands of dollars.

NOTE: This table is a further breakdown of Table 1. Table 1 shows a 48 percent increase from 1974-75 through 1977-78 at all levels in total limits, while Table 2 shows a 143 percent increase in excess coverage for the same period.

TABLE 3

Distribution of Liability Insurance Limits, by Level of Coverage, 1974-75 Through 1977-78

Liability limits	Liability insurance limits, by fiscal year*							
	1974-75		1975-76		1976-77		1977-78	
	Number of respondents	Amount	Number of respondents	Amount	Number of respondents	Amount	Number of respondents	Amount
Primary								
Limits frequency distribution								
$000-100	69	$301	32	$200	10	$100	45	$300
$101-500	270	114,318	295	128,659	317	145,300	376	176,827
$501-1,000	295	294,050	297	296,350	305	304,750	286	285,750
$1,001-2,000	68	133,114	64	124,553	68	132,680	51	98,497
$2,001-5,000	164	732,300	180	817,414	172	786,383	123	574,728
$5001--	21	987,650	19	480,649	15	432,597	6	849,943
Liability limits totals	887	2,261,733	887	1,847,825	887	1,801,810	887	1,986,045
Excess--first layer								
Limits frequency distribution								
$000-100	238	0	158	0	104	75	53	1
$101-500	5	2,105	11	5,131	46	21,057	83	37,050
$501-1,000	79	78,200	81	80,100	132	128,600	153	150,500
$1,001-2,000	45	87,900	56	108,200	56	107,400	60	113,700
$2,001-5,000	165	744,700	215	978,500	191	845,200	191	824,000
$5,001--	30	305,500	40	390,000	33	360,000	22	252,500
Liability limits totals	562	1,218,405	562	1,561,931	562	1,462,332	562	1,377,751
Excess--second layer								
Limits frequency distribution								
$000-100	211	0	170	0	96	0	30	0
$100-500					2	1,000	6	3,000
$501-1,000	1	1,000	11	11,000	14	14,000	30	29,700
$1,001-2,000	3	6,000	4	8,000	20	38,000	31	60,000
$2,001-5,000	26	120,500	46	206,500	102	430,700	131	549,700
$5,001--	4	50,000	14	139,000	11	389,000	17	449,500
Liability limits totals	245	177,500	245	364,500	245	872,700	245	1,091,900

*Dollar amounts are shown in thousands of dollars.

TABLE 3 (Concluded)

Distribution of Liability Insurance Limits, by Level of Coverage, 1974-75 Through 1977-78

Liability limits	Liability insurance limits, by fiscal year*							
	1974-75		1975-76		1976-77		1977-78	
	Number of respondents	Amount	Number of respondents	Amount	Number of respondents	Amount	Number of respondents	Amount
Excess--third layer Limits frequency distribution								
$000-100	79	$ 0	72	$ 0	40	$ 0	23	$ 0
$501-1,000			1	1,000	1	1,000	4	4,000
$1,001-2,000	1	2,000			7	13,000	4	8,000
$2,001-5,000	3	14,000	7	34,000	28	134,950	46	213,000
$5,001--	1	10,000	4	40,000	8	772,000	7	757,000
Liability limits totals	84	$26,000	84	$75,000	84	$920,950	84	$982,000

*Dollar amounts are shown in thousands of dollars.

TABLE 4

Liability Limits, Premiums Paid, and Cost per Unit of A.D.A., by County, for Elementary School Districts, High School Districts, and Unified School Districts, 1974-75 Through 1977-78

County	Units of a.d.a., liability limits, premiums, and cost per unit of a.d.a., by fiscal year*			
	1974-75	1975-76	1976-77	1977-78
Alameda				
A.d.a.	155,569		157,340	
Liability limits	105,900	123,900	141,000	137,750
Premium	284,929	681,428	1,103,868	2,150,781
Cost per a.d.a.	$1.83		$7.02	
Alpine				
(No districts reported.)				
Amador				
A.d.a.	2,953		3,148	
Liability limits	2,750	4,750	7,500	8,500
Premium	5,819	9,088	32,308	56,055
Cost per a.d.a.	$1.97		$10.26	
Butte				
A.d.a.	23,502		23,593	
Liability limits	35,500	41,500	65,700	50,700
Premium	161,131	213,836	365,639	463,028
Cost per a.d.a.	$6.86		$15.50	
Calaveras				
A.d.a.	3,140		3,489	
Liability limits	17,000	18,000	17,000	16,700
Premium	7,730	10,610	27,762	45,007
Cost per a.d.a.	$2.46		$7.96	
Colusa				
A.d.a.	2,928		2,587	
Liability limits	20,000	20,000	20,000	8,000
Premium	16,285	25,697	34,576	43,332
Cost per a.d.a.	$5.56		$13.37	
Contra Costa				
A.d.a.	94,847		95,583	
Liability limits	71,050	77,250	82,900	74,000
Premium	194,010	396,651	673,051	1,196,001
Cost per a.d.a.	$2.05		$7.04	
Del Norte				
(No districts reported.)				

*Limits are shown in thousands of dollars.

NOTE: Only those elementary, high, and unified school districts in the computer program are included in this table. Districts with a self-insurance reserve or other special situations are reported on elsewhere in this report.

TABLE 4 (Continued)

Units of a.d.a., liability limits, premiums, and cost per unit of a.d.a., by fiscal year*

County	1974-75	1975-76	1976-77	1977-78
El Dorado				
A.d.a.	12,437		13,980	
Liability limits	82,500	82,500	82,500	82,500
Premium	34,679	104,105	164,043	334,794
Cost per a.d.a.	$2.79		$11.73	
Fresno				
A.d.a.	107,010		109,149	
Liability limits	80,300	120,214	129,658	120,278
Premium	275,579	475,795	676,136	895,005
Cost per a.d.a.	$2.58		$6.19	
Glenn				
A.d.a.	3,343		3,442	
Liability limits	25,000	27,500	27,500	26,500
Premium	32,332	66,449	73,567	105,226
Cost per a.d.a.	$9.67		$21.37	
Humboldt				
A.d.a.	17,283		16,561	
Liability limits	58,150	64,962	64,540	64,858
Premium	90,113	115,755	202,567	319,486
Cost per a.d.a.	$5.21		$12.23	
Imperial				
A.d.a.	24,009		23,518	
Liability limits	19,364	20,446	22,400	39,919
Premium	67,655	93,734	166,839	175,372
Cost per a.d.a.	$2.82		$7.09	
Inyo				
A.d.a.	1,674		1,551	
Liability limits	2,000	2,000	2,000	1,500
Premium	5,902	7,405	10,043	8,723
Cost per a.d.a.	$3.53		$6.48	
Kern				
A.d.a.	83,026		83,286	
Liability limits	67,565	71,090	75,276	73,002
Premium	196,341	313,956	478,516	798,520
Cost per a.d.a.	$2.36		$5.75	
Kings				
A.d.a.	15,991		15,992	
Liability limits	26,000	36,000	32,000	32,000
Premium	50,763	130,517	200,996	243,959
Cost per a.d.a.	$3.17		$12.57	
Lake				
A.d.a.	4,091		4,384	
Liability limits	6,000	6,000	6,000	5,000
Premium	19,053	25,119	59,314	47,547
Cost per a.d.a.	$4.66		$13.53	

TABLE 4 (Continued)

Units of a.d.a., liability limits, premiums, and cost per unit of a.d.a., by fiscal year*

County	1974-75	1975-76	1976-77	1977-78
Lassen				
A.d.a.	2,155		2,136	
Liability limits	3,000	7,000	7,000	11,000
Premium a.d.a.	7,056	14,073	21,214	44,567
Cost per a.d.a.	$3.27		$9.93	
Los Angeles				
A.d.a.	628,798		622,476	
Liability limits	262,900	360,100	409,050	422,200
Premium	1,226,033	2,622,511	4,717,043	7,280,250
Cost per a.d.a.	$1.95		$17.24	
Madera				
A.d.a.	10,485		11,867	
Liability limits	7,000	13,500	22,500	26,000
Premium	26,484	74,718	105,770	143,283
Cost per a.d.a.	$2.53		$8.91	
Marin				
A.d.a.	20,258		19,883	
Liability limits	38,900	47,400	48,800	47,300
Premium	58,613	83,203	147,128	273,901
Cost per a.d.a.	$2.89		$7.40	
Mariposa				
A.d.a.	1,447		1,508	
Liability limits	1,000	1,000	1,000	
Premium	10,032	23,432	44,084	
Cost per a.d.a.	$6.93		$29.23	
Mendocino				
A.d.a.	1,612		1,702	
Liability limits	17,800	18,800	18,500	21,250
Premium	32,513	48,302	78,031	149,964
Cost per a.d.a.	$20.17		$45.85	
Merced				
A.d.a.	24,187		24,056	
Liability limits	56,700	62,600	63,300	66,500
Premium	81,517	116,111	173,772	235,274
Cost per a.d.a.	$3.37		$7.22	
Modoc				
A.d.a.	1,966		1,970	
Liability limits	4,800	4,800	3,000	2,800
Premium	7,292	11,219	18,688	16,254
Cost per a.d.a.	$3.71		$9.49	
Mono				
A.d.a.	585		569	
Liability limits	300	300	300	2,000
Premium	20,000	20,000	20,000	16,121
Cost per a.d.a.	$34.19		$35.15	

TABLE 4 (Continued)

Units of a.d.a., liability limits, premiums, and cost per unit of a.d.a., by fiscal year*

County	1974-75	1975-76	1976-77	1977-78
Monterey				
A.d.a.	46,502		46,921	
Liability limits	53,200	57,200	62,300	61,500
Premium	125,605	172,874	276,535	427,558
Cost per a.d.a.	$2.70		$5.89	
Napa				
A.d.a.	17,831		17,602	
Liability limits	11,500	12,500	12,500	7,500
Premium	46,300	63,743	148,315	179,648
Cost per a.d.a.	$2.60		$8.43	
Nevada				
(No districts reported.)				
Orange				
A.d.a.	374,380		374,895	
Liability limits	495,100	511,900	521,100	645,800
Premium	824,052	1,490,525	2,875,238	2,815,165
Cost per a.d.a.	$2.20		$7.67	
Placer				
A.d.a.	20,251		21,744	
Liability limits	35,583	35,683	46,517	44,050
Premium	67,859	92,581	171,354	299,721
Cost per a.d.a.	$3.35		$7.88	
Plumas				
A.d.a.	2,961		3,182	
Liability limits	5,500	5,500	5,500	5,500
Premium	14,549	20,548	36,435	51,360
Cost per a.d.a.	$4.91		$11.45	
Riverside				
A.d.a.	101,565		106,305	
Liability limits	64,300	90,800	93,000	102,500
Premium	236,598	382,364	768,453	1,392,651
Cost per a.d.a.	$2.33		$7.23	
Sacramento				
A.d.a.	25,365		25,405	
Liability limits	15,500	22,500	44,500	49,000
Premium	76,034	81,051	147,817	252,290
Cost per a.d.a.	$3.00		$5.82	
San Benito				
A.d.a.	4,746		4,949	
Liability limits	16,000	16,000	16,500	14,500
Premium	20,518	26,407	41,577	68,025
Cost per a.d.a.	$4.32		$8.40	

TABLE 4 (Continued)

Units of a.d.a., liability limits, premiums, and cost per unit of a.d.a., by fiscal year*

County	1974-75	1975-76	1976-77	1977-78
San Bernardino				
A.d.a.	127,291		128,222	
Liability limits	72,501	108,100	105,000	90,000
Premium	272,422	529,731	1,030,742	1,378,755
Cost per a.d.a.	$2.14		$8.04	
San Diego				
A.d.a.	173,826		181,553	
Liability limits	101,850	122,849	129,447	136,743
Premium	284,475	503,170	871,178	1,379,742
Cost per A.d.a.	$1.64		$4.80	
San Francisco (See Table 12 on page 30.)				
San Joaquin				
A.d.a.	47,112		45,597	
Liability limits	47,100	57,300	62,300	61,800
Premium	164,039	256,003	711,136	706,101
Cost per a.d.a.	$3.48		$15.60	
San Luis Obispo				
A.d.a.	22,469		23,369	
Liability limits	27,100	36,600	37,800	34,800
Premium	68,400	122,717	163,325	305,441
Cost per a.d.a.	$3.04		$6.99	
San Mateo				
A.d.a.	85,304		82,974	
Liability limits	96,550	96,550	94,300	90,800
Premium	252,429	358,972	751,473	869,083
Cost per a.d.a.	$2.96		$9.06	
Santa Barbara				
A.d.a.	33,128		31,749	
Liability limits	49,100	52,300	52,300	52,300
Premium	95,469	179,354	375,607	469,998
Cost per a.d.a.	$2.88		$11.83	
Santa Clara				
A.d.a.	271,393		269,021	
Liability limits	136,200	191,400	206,100	208,300
Premium	739,367	434,347	1,769,967	2,909,329
Cost per a.d.a.	$2.72		$6.58	
Santa Cruz				
A.d.a.	16,731		17,067	
Liability limits	13,800	15,300	14,800	15,800
Premium	84,928	121,494	161,262	218,133
Cost per a.d.a.	$5.08		$9.45	

TABLE 4 (Continued)

Units of a.d.a., liability limits, premiums, and cost per unit of a.d.a., by fiscal year*

County	1974-75	1975-76	1976-77	1977-78
Shasta				
A.d.a.	16,938		17,739	
Liability limits	32,970	50,786	71,820	63,088
Premium	42,752	75,271	174,249	270,308
Cost per a.d.a.	$2.52		$9.82	
Sierra				
(No districts reported.)				
Siskiyou				
A.d.a.	5,869		5,825	
Liability limits	26,505	36,031	34,257	34,600
Premium	27,770	46,538	77,319	99,307
Cost per a.d.a.	$4.73		$13.27	
Solano				
A.d.a.	43,479		45,382	
Liability limits	19,100	29,000	33,000	33,000
Premium	63,148	75,038	170,451	337,457
Cost per a.d.a.	$1.45		$3.76	
Sonoma				
A.d.a.	47,592		48,293	
Liability limits	65,650	74,650	95,192	100,442
Premium	118,352	159,202	548,935	849,792
Cost per a.d.a.	$2.49		$11.37	
Stanislaus				
A.d.a.	28,430		29,793	
Liability limits	36,900	57,400	60,600	61,600
Premium	66,342	164,330	247,455	377,744
Cost per a.d.a.	$2.33		$4.08	
Sutter				
A.d.a.	10,683		10,583	
Liability limits	19,400	27,400	41,000	37,001
Premium	19,704	42,227	92,930	202,626
Cost per a.d.a.	$1.84		$8.78	
Tehama				
A.d.a.	7,157		7,274	
Liability limits	12,100	21,600	23,845	23,645
Premium	38,684	49,561	81,566	99,290
Cost per a.d.a.	$5.41		$11.21	
Trinity				
A.d.a.	1,829		2,135	
Liability limits	20,100	23,190	24,380	22,462
Premium	10,564	24,424	27,792	24,724
Cost per a.d.a.	$5.78		$13.02	

TABLE 4 (Concluded)

Units of a.d.a., liability limits, premiums, and cost per unit of a.d.a., by fiscal year*

County	1974-75	1975-76	1976-77	1977-78
Tulare				
A.d.a.	52,128		53,766	
Liability limits	62,900	84,300	67,400	67,600
Premium	151,192	214,888	327,308	474,077
Cost per a.d.a.	$2.90		$6.09	
Tuolumne				
A.d.a.	3,362		3,554	
Liability limits	16,800	22,800	23,800	19,500
Premium	12,220	20,373	35,445	39,121
Cost per a.d.a.	$3.63		$9.97	
Ventura				
A.d.a.	117,245		119,107	
Liability limits	70,500	101,300	102,300	105,800
Premium	129,238	398,012	846,199	1,661,022
Cost per a.d.a.	$1.10		$7.10	
Yolo				
A.d.a.	20,496		20,039	
Liability limits	12,500	17,500	19,500	22,500
Premium	53,056	76,657	139,018	187,023
Cost per a.d.a.	$2.59		$6.94	
Yuba				
A.d.a.	10,472		10,343	
Liability limits	8,000	8,000	13,000	13,000
Premium	29,478	69,528	91,856	64,897
Cost per a.d.a.	$2.81		$8.88	
State totals				
A.d.a.	2,979,841		2,998,158	
Liability limits	3,135,238	3,206,456	4,450,792	4,537,496
Premium	7,037,236	12,551,722	22,742,991	33,496,968
Cost per a.d.a.	$2.36		$7.59	

Claims Information

Respondents to the questionnaire were asked to submit claims information for the years 1974-75, 1975-76, and 1976-77. The information requested for these years included the number of claims, the amount paid, and the amount of their reserves. Also, respondents were asked for the dollar amount and the type of the largest single claim paid during the three-year period.

Substantiated responses were not obtained from all districts. Many districts reported that they did not have claims information on file. When they requested the information from their broker, the broker suggested that they obtain the information from the insurer. Some insurers stated that they could not provide the claims information within the requested time frame. Therefore, the claims information is incomplete because some districts were unable to respond to the questionnaire.

The reporting of claims by insurers to districts varies with the insurer. Some insurers submit to the district a yearly report which lists the amount of individual claims by type, the dollar amount reserved, and the amount paid. Other insurers do not routinely provide claims information to the insured.

When discussing claims and losses, one must take into consideration the values of all happenings that have occurred but that have not yet been reported to the insurer (IBNR). The lag of time between the happening and the filing of a claim may be significant, especially in the case of a minor who may wait until he or she reaches his or her majority to file a claim. The incurred but not reported losses are only estimates based on a historical average as impacted by current trends.

Finally, the dollar amount reported in claims paid generally does not include claim costs. The two areas of legal investigation and defense costs may add as much as 15 to 35 percent to the amount of the claim settlement, according to some estimates.

Some school people believe that insurers too often settle questionable claims out of court rather than incur the legal expenses necessary to carry them through the courts. These people believe that the practice of out-of-court settlement encourages an increasing number of claims.

Table 5 provides a comparison of general liability claims to premiums paid as reported by respondent districts. The claims totals include amounts paid, plus reserve amounts, but do not include legal or claims investigation expenses. Table 6 provides a further breakdown of the same data. One cannot assume that claims paid in a given year were incurred in that year because the period of time between the filing of a claim and the paying of the claim may be several years.

Table 5 clearly shows that claims totals exceeded premiums for 1974-75. This seems to indicate that premiums were priced too low prior to and during 1974-75. In 1975-76 premium costs began to rise. The increase has continued through the current year. (See Table 1 for a detailed presentation of liability limits and premiums paid.)

The highest ratio of claims to premiums paid (expressed as a percent) was that of the high school districts. Over the three-year period, community college

districts and offices of county superintendents of schools had the lowest claims to premiums ratio. The state totals for ratio of claims to premiums paid dropped from 107 percent in 1974-75 to 50 percent in 1976-77.

The 50 percent ratio of claims to premiums for 1976-77 should signify a leveling off in the rise of insurance premiums. However, as shown in the totals in Table 1, premium costs rose sharply in 1977-78. The total statewide limits of liability rose $379,904,000 from 1976-77 to 1977-78, while the cost in statewide premiums rose $13,184,632. Expressed in another way, the premium cost per $1 million of coverage in 1976-77 was $5,261, while in 1977-78 the average cost per $1 million of coverage rose to $7,318.

The claims totals in Table 6 include claims paid and amounts reserved for claims filed but not settled. For instance, Table 6 shows that for high school districts, of the $7,896,467 total claims, $7,484,745 was in reserve. These monies may not be actually paid in the future. And, $5,300,000 was reserved by one district.

Table 6 shows a decrease in claims paid from 1974-75 through 1976-77. The total paid in 1974-75 was $4,612,176, while the total paid in 1976-77 was $1,619,829. This represents a decrease of $2,992,347, or approximately 65 percent.

The claims totals in Table 6 do not include incurred but not reported claims. Therefore, the totals, especially for 1976-77, may increase as claims are reported to the insurance companies.

TABLE 5

Comparison of Claims to Premiums Paid

Entity	Amount of claims and premiums, by fiscal year*		
	1974-75	1975-76	1976-77
Elementary school districts			
Claims totals	$ 2,196,757	$ 2,013,155	$ 1,909,369
Premium totals	1,825,141	2,973,385	5,210,434
Percent claims to premium	120	67	37
High school districts			
Claims totals	2,182,465	3,488,450	7,896,467
Premium totals	1,476,906	2,461,127	4,369,537
Percent claims to premium	148	142	181
Community college districts			
Claims totals	759,746	813,762	495,267
Premium totals	1,038,413	1,690,531	3,160,217
Percent claims to premium	73	52	16
Unified school districts			
Claims totals	3,600,520	3,669,386	2,858,149
Premium totals	3,735,189	7,177,210	13,163,020
Percent claims to premiums	96	52	22
Offices of county superintendents of schools			
Claims totals	111,539	65,747	63,775
Premium totals	197,035	352,462	706,611
Percent claims to premium	57	19	9
Totals			
Claims totals	$ 8,851,027	$10,050,500	$13,223,027
Premium totals	8,272,684	14,594,715	26,609,819
Percent claims to premium	107	69	50

*Claims and premiums are shown in whole dollars.

TABLE 6

Liability Insurance Claims, by Number, Amount, and Reserves, for Five Types of School Entities, 1974-75 Through 1977-78

Entity	Number, amount, reserve, and claims, by fiscal year			
	1974-75	1975-76	1976-77	1977-78
Number of claims				
Elementary school districts	1,443	1,403	1,603	0
High school districts	466	473	540	0
Community college districts	289	327	346	0
Unified school districts	4,174	4,225	4,317	0
Offices of county superintendents of schools	86	96	89	0
Totals	6,458	6,524	6,895	0
Amount paid				
Elementary school districts	$1,010,520	$535,473	$460,566	$0
High school districts	1,093,226	927,178	411,721	0
Community college districts	622,496	155,345	89,379	0
Unified school districts	1,830,895	1,615,711	643,888	0
Offices of county superintendents of schools	55,039	23,247	14,275	0
Totals	4,612,176	3,256,954	1,619,829	0
Reserve				
Elementary school districts	$1,186,237	$1,477,682	$1,448,803	$0
High school districts	1,089,239	2,561,272	7,484,745	0
Community college districts	137,250	658,417	405,888	0
Unified school districts	1,769,625	2,053,675	2,214,261	0
Offices of county superintendents of schools	56,500	42,500	49,500	0
Totals	4,238,851	6,793,546	11,603,198	0
Claims totals				
Elementary school districts	$2,196,757	$2,013,155	$1,909,369	$0
High school districts	2,182,465	3,488,450	7,896,467	0
Community college districts	759,746	813,762	475,267	0
Unified school districts	3,600,520	3,669,386	2,858,149	0
Offices of county superintendents of schools	111,539	65,747	63,775	
Totals	8,851,027	10,050,500	13,223,027	0

Liability Insurance Deductibles

A deductible is defined as the amount the policyholder pays before the insurer is liable for payments. The deductible is treated differently from a self-insurance reserve in that it is considered a part of the general fund, while self-insurance monies must be placed in a restricted reserve fund.

The data in Table 7 show that districts generally have not assumed a significant amount of risk but rather have passed the risk to insurance companies by purchasing full liability coverage. As the reader can readily see from the data in Table 7, the total deductibles for school districts is an extremely small percentage of the total amounts of coverage statewide. One possibility for the reduction of premium costs would be for districts to assume a greater level of risk. The amount of risk assumed would, out of necessity, vary with the amount of money a district could maintain in the general fund. A variation would be for a district to establish a self-insurance reserve in a restricted fund, thus removing these funds from the employer-employee negotiation process.

Significant Exclusions of Coverage

Respondents were asked to list areas of exclusions that were written into their policies. They were also asked to list verbal warnings received from insurers. The implication of the warning usually was that the insured's policy would not be renewed unless the activity or use of equipment mentioned was discontinued.

TABLE 7

Liability Insurance Deductibles, by Entity, 1974-75 Through 1977-78

Entity	Amount of deductible per occurrence, by fiscal year			
	1974-75	1975-76	1976-77	1977-78
Elementary school districts	$ 116,350	$ 129,751	$ 164,901	$ 165,251
High school districts	20,025	22,775	27,750	199,250
Community college districts	45,300	55,300	146,300	156,300
Unified school districts	53,350	175,450	221,950	436,550
Totals	$ 235,025	$ 383,276	$ 560,901	$ 957,051
State total liability coverage	$3,683,638,000	$3,849,256,000	$5,057,792,000	$5,437,696,000

Insurers include in the policies they write a standard list of liability exclusions. These exclusions vary among insurance companies and by type of policy. The following are normally excluded from liability coverage:

1. Claims covered under workers' compensation
2. In-flight aircraft
3. Nuclear explosion or nuclear materials
4. Injury incurred while one is under the influence of drugs or intoxicating substances
5. Natural disasters, such as floods or earthquakes
6. Civil disturbances, such as war or riot
7. Inverse condemnation

In addition to standard exclusions, respondents reported specific exclusions. The exclusions are listed in Table 8.

Potential Solutions Suggested by Respondents

The intent of this study was not to solicit solutions to the insurance problem. The study was designed to collect data which can be used by a statewide committee to study alternatives for securing more adequate limits of liability insurance at more reasonable costs. However, respondents were asked to submit comments. Some potential solutions suggested by respondents and submitted with the survey forms were as follows:

1. Provide state funds for insurance costs similar to the funds provided for in AB 65 but deleted by Governor Brown.
2. Have the Legislature reestablish complete liability immunity for school districts.
3. Have the Legislature provide for limited liability for school districts.
4. Prohibit liability claims from students and parents when (a) the student has violated known safety rules or regulations; (b) the student has engaged in horseplay or has demonstrated other than reasonable behavior; or (3) the student has disobeyed reasonable directions from a teacher or supervisor.
5. Establish a program of statewide school district liability self-insurance to eliminate unreasonable profits for or costs of insurance companies and/or brokers.
6. Establish insurance pools on a countywide or multiple districtwide basis through a joint powers agreement.

TABLE 8

Written and Verbal Exclusions in Insurance Policies for California Public Schools

Type of equipment, activity, service, or individuals excluded	Number and type of exclusion	
	Written	Verbal
Trampoline and/or springboard	219	16
Environmental pollution	9	
Radio and television broadcasting	14	
Cosmetology	1	
Doctor and nurse services	19	1
First aid to students	4	
School board errors and omissions	30	
Punitive and exemplary damages	14	
Interscholastic athletic participants	18	
Athletic events	4	
Students riding horses	2	1
Rodeo activities	1	
Hang gliding	7	1
Skateboards	7	2
Mountaineering	1	2
Scuba diving	29	12
Surfing	5	1
Watercraft	9	2
Skiing	7	2
Outdoor education		1
Parent transporting in private vehicle	2	3
Buses on nonschool activity	2	1
Field trips, noncurriculum related	1	

7. Establish better risk management programs in districts so as to reduce the chances for liability claims.

8. Have districts assume a share of the risks through deductibles or self-insurance reserves.

Discussion about solutions to the high cost of liability insurance usually revolves around two major categories. One category contains short-range solutions, and the other includes long-range solutions.

The major short-term solutions suggested include some kind of ''pooling'' of risks and/or greater assumption of risks by districts through deductibles or self-insurance reserves, or a combination of these and better risk management programs within districts. Long-term solutions include tort reform and additional state funds to meet increased premium costs.

Solutions suggested by the ad hoc Liability Insurance Committee can be found on pages 33-34.

III. Analysis of Entities with Special Circumstances

Combined Policies for Offices of County Superintendents of Schools and for School Districts

Three offices of county superintendents of schools had a liability policy that covered that office and most school districts within the county. A single premium was established by the insurance carrier. The office of the county superintendent of schools and the districts covered by the policy were charged a prorated share of the premium on the basis of a.d.a and, to some degree, on risk exposure. Some of the comparative data for these counties are given in Table 9.

TABLE 9

Data on Liability Coverage for Offices of County Superintendents of Schools and Certain School Districts in Three Counties

Data for 1974-75

County	No. of districts*	Limits of liability	Total premium
El Dorado	15	$4,500,000	$28,142
Lassen	10	5,300,000	5,061
Nevada	8	5,300,000	21,040

Data for 1977-78

El Dorado	15	$5,500,000	$325,000
Lassen	10	5,300,000	23,371
Nevada	12	6,000,000	53,553

Total claims information for 1974-75 through 1976-77

County	No. of claims	Amount paid	Reserve	Total incurred
El Dorado	49	$12,766	$322,160	$334,926
Lassen	4	2,216	0	2,216
Nevada	111	41,900	33,500	75,400

*Includes office of the county superintendent of schools

Schools Insurance Authority

The Schools Insurance Authority is composed of seven school districts and the Office of the Sacramento County Superintendent of Schools that have joined together in a joint powers agreement. The purpose of the Schools Insurance Authority is to:

1. Provide insurance coverage equal to or better than the coverage that could be obtained on a district-by-district basis.

2. Stabilize individual district dollar contributions for insurance purposes.

3. Work toward a total self-insurance program through dollar savings and an improved program of loss prevention.

4. Seek the participation of other school districts in the program.

5. Provide a service to school district members by offering:

   a. A large, stable organization for pooling resources to cover deductibles or risk assumptions
   b. The economy of greater purchasing power when purchasing excess or primary insurance
   c. The combined abilities of the members of the organization and the specialists retained by them

The Schools Insurance Authority appears to be unique within the state because it involves a multiple-county joint powers agreement. Features of the Schools Insurance Authority are as follows:

1. The joint powers agreement includes six school districts within Sacramento County, the Office of the Sacramento County Superintendent of Schools, and one district (Hayward Unified School District) in Alameda County.

2. Member districts range in size from 126 enrollment to 43,000 enrollment.

3. Risk coverage is provided through a combination of self-insurance reserve and purchased insurance. All liability insurance is purchased from an insurance company, with no deductible.

4. The program is managed by a board of directors from member districts. Loss control and claims adjustment service are contracted for and paid for by the Schools Insurance Authority.

The Schools Insurance Authority was established in 1974 with four districts and the Office of the Sacramento County Superintendent of Schools. In 1976 two more districts in Sacramento County and the Hayward Unified School District in Alameda County were added.

The Schools Insurance Authority purchased $25,000,000 in liability insurance for the 1977-78 policy year. The premium cost was prorated to member districts on basically an a.d.a. basis. One obvious advantage of this system is that small districts can purchase more coverage at lower costs than they could purchase alone.

The Schools Insurance Authority includes only districts with a reasonable loss record. This arrangement has allowed the Schools Insurance Authority to purchase a large amount of coverage at a reasonable cost. As currently constructed, this type of joint powers agreement does not appear to be a solution for districts with a high loss record because many districts might be reluctant to join with them in a risk management program.

Districts with More Than Three Excess Layers of Insurance Coverage

Seven school districts and two community college districts reported that they had to purchase coverage in more than three excess layers to secure the coverage deemed adequate. Table 10 provides a summary of the 1977-78 data for these districts.

TABLE 10

Data for Districts with More Than Three Excess Layers, of Insurance Coverage, 1977-78

District	Primary limit	Total excess limit	No. excess layers	Primary premium	Total excess premium
Lodi Unified	$500,000	$20,500,000	4	$83,565	$101,320
Modesto City Elementary/ High	500,000	14,500,000	4	130,079	157,949
Pasadena Area Community College	100,000	19,900,000	5	NA(1)	NA(1)
Pasadena Unified	500,000	14,500,000	5	NA(1)	NA(1)
San Diego City Unified	500,000	4,500,000	4	316,000	407,463
San Francisco Unified	200,000 SIR(2)	9,800,000	5	SIR(2)	371,105
State Center Community College	1,000,000	14,000,000	4	82,543	45,280

[1]Premium figures were not available at the time of close of computer input.

[2]Self-insurance reserve

County Government Liability Policies

Eight offices of county superintendents of schools reported liability coverage under a blanket county government policy. The premium costs cannot be separated for each branch of county government. Table 11 lists the counties and the limits of liability.

TABLE 11

Data on Combined County Government Liability Policies

County	Limits of liability
Calaveras	Not listed
Fresno	$25,000,000
Glenn	Not listed
Modoc	Not listed
San Bernardino	Not listed
Siskiyou	5,000,000
Sutter	Not listed
Riverside	20,000,000 ($100,000 SIR in pool)

Districts with a Self-Insurance Reserve

Six districts reported a self-insurance reserve (SIR). The SIR differs from the deductible in that it is in a restricted fund that can be used only for the purpose for which the fund was established. The computer program was not designed to handle SIR information, so the 1977-78 policy year information for these districts is summarized below in Table 12.

TABLE 12

Districts with a Self-Insurance Reserve, 1977-78

District	SIR	Total excess	No. of excess layers	Total excess premium
Compton Unified	$ 50,000	$ 950,000	2	$ 304,440
Long Beach Unified	100,000	10,000,000	5	392,935
Los Angeles Unified	1,000,000	49,000,000	3	947,904
Mt. Diablo Unified	100,000	5,000,000	2	559,493
Oakland Unified	300,000	5,500,000	2	94,450
San Francisco Unified	200,000	9,800,000	5	371,105

During the years 1974-75, 1975-76, and 1976-77, San Francisco Unified School District had an SIR of $100,000, which was increased to $200,000 in 1977-78. Compton Unified School District started an SIR in 1976-77 in the amount of $50,000, which remained the same in 1977-78. Long Beach Unified School District started with an SIR of $25,000 in 1976-77 and increased it to $100,000 in 1977-78. Los Angeles Unified School District started with an SIR in the amount of $250,000. This amount was the same in 1976-77 and was increased to $1,000,000 in 1977-78. In 1975-76 Oakland Unified School District started with an SIR of $100,000, which remained the same in 1976-77 and was increased to $300,000 in 1977-78. The Mt. Diablo Unified School District had an SIR of $50,000 in 1975-76 and 1976-77 and an SIR of $100,000 in 1977-78.

The small number of districts that reported having an SIR indicates that most districts are transferring their total liability risk to insurance companies. The study also shows that those districts with an SIR are only partially self-insured. This follows the recommended practice of purchasing stop-loss coverage, whereby the insurance company pays for any loss in excess of a set amount.

The history of districts with an SIR shows a trend of increased SIR amounts. This increase reflects the trend of insurance companies not to provide stop-loss coverage in those cases that involve small deductibles. Small deductibles generally do not result in substantial premium savings, and problems are created in claims investigation and adjustment. If a district establishes an SIR, it should be financially able to assume a substantial amount of risk.

IV. Possible Solutions Suggested by the Department's Ad Hoc Liability Insurance Committee

The ad hoc Liability Insurance Committee met in Sacramento on February 17 to review the results of the statewide survey and to formulate possible solutions for further discussion. The major recommendations proposed by the committee are outlined below. The suggestions are conceptual and will require further study. Comments on other possible solutions considered during the meeting are presented in summary form.

I. Risk Management

Objective: Establish a risk management model for school districts by January 1, 1979.

Procedure: The Department's ad hoc Liability Insurance Committee will continue to meet. The next meeting is scheduled for Wednesday, March 29, in Sacramento. The committee has a commitment from at least five insurance companies to send their safety engineers and claims managers to the meeting to advise the committee on various safety improvements that might reduce premiums.

Desired results: Experience has shown that districts with a good risk management program are in the best position to purchase insurance at reduced rates; therefore, a primary goal is to ensure that a risk management committee is operating in each district.

II. Statewide Excess Pool for Liability Insurance

Objectives: Establish a statewide pool of dollars which would be used to reimburse school districts for liability judgments in excess of $1 million.

Procedure: Each school district would have $1 per year per unit of a.d.a withheld from its principal apportionment. The money would be placed in an interest-bearing account and would be used to reimburse districts for liability judgments in excess of $1 million. The individual districts would be liable for the first $1 million of coverage through either purchased insurance or self-insurance. When the pool reached a certain total dollar amount, the assessment would be suspended.

Desired results: The cost of liability insurance for districts should be reduced. The rationale* is as follows:

In 1977-78 the total primary limit statewide was approximately $2 billion, and the cost for primary coverage was approximately $28.5 million. In addition, the excess total limit was approximately $3.6 billion, while the cost

*All figures include elementary, high school, unified, and community college districts. Offices of county superintendents of schools are not included in a.d.a counts.

for excess coverage was approximately $17 million. If the state had withheld $1 per unit of a.d.a. from each district's apportionment, it could have placed $5.4 million in an interest-bearing account for excess coverage. The difference between purchasing excess coverage from insurance carriers for $17 million and the $5.4 million withheld by the state would have provided a savings of $11.6 million to the districts.

As indicated, $1 per unit of a.d.a. would produce approximately $5.4 million yearly. This figure does not include amounts that would be paid by offices of county superintendents of schools. The basis for their contributions would have to be determined.

Although there has not been a liability judgment in California in excess of $1 million, schools are paying approximately $17 million for excess coverage in 1977-78. If each school district is made responsible for $1 million of liability coverage, the cost would probably exceed the current cost of primary coverage because a substantial amount of primary coverage can be purchased now for less than this amount.

III. Pooling of Insurance Between Districts

California does not have any joint powers, self-funded pools. A proposal for a joint powers agreement for liability insurance is near completion and will be presented to 29 districts in San Diego County. Since this is a completely new field, the committee cannot recommend this procedure.

IV. Increase Deductibles

Only a few districts in California have deductibles for liability insurance. In the past most insurance companies have discouraged deductibles for liability coverage because of problems with handling claims. However, it now appears that more companies will accept deductibles for liability coverage and, in fact, may require districts to assume deductibles to get coverage. Deductibles may not be a savings to districts because they must agree to pay the smaller claims rather than pass the cost on to the insurance companies. However, the committee believes that district-assumed deductibles may result in savings over several years.

V. Tort Reform

The committee is in favor of legislation to effect tort reform which would restore some immunity to school districts. The committee recommends that the State Department of Education and school districts support tort reform which would prohibit or limit liability claims under certain circumstances. The circumstances would have to be defined.

Appendixes

Statutory Provisions Relating to Liability Insurance

Purpose of Liability Insurance

In California, school districts have legal responsibility for the negligence of their employees and for dangerous or defective conditions of school property. The nature of the school operation and of the statutory liability involved exposes both the school district and its personnel to liability suits. Therefore, the Legislature has made it mandatory that each school district carry insurance covering the legal liability of the district and the personal liability of its board members and employees when they are acting within the scope of their office or employment. A school district may insure against the personal liability of its officers and employees for any act or omission performed in the scope of employment.

Liability of School Districts and School Personnel

The following sections from the Government Code and the Civil Code specify the liability of school districts and their personnel:

1. Government Code Section 815.2 reads as follows:

   (a) A public entity is liable for injury proximately caused by an act or omission of an employee of the public entity within the scope of his employment if the act or omission would, apart from this section, have given rise to a cause of action against that employee or his personal respresentative.

   (b) Except as otherwise provided by statute, a public entity is not liable for an injury resulting from an act or omission of an employee of the public entity where the employee is immune from liability.

2. Government Code Section 820 provides that ". . . a public employee is liable for injury caused by his act or omission to the same extent as a private person." These code sections are modified by specific immunities provided in Government Code sections 820.2 through 822.2. Section 820.2 provides that ". . . a public employee is not liable for an injury resulting from his act or omission where the act or omission was the result of the exercise of the discretion vested in him. . . ."

3. Civil Code Section 1714 states:

   Everyone is responsible, not only for the result of his willful acts, but also for an injury occasioned to another by his

want of ordinary care or skill in the management of his property or person, except so far as the latter has, willfully or by want or ordinary care, brought the injury upon himself. . . .

Liability Insurance

The following Education Code and Government Code provisions pertain to both required and permissive liability protection:

1. Each school district is required to insure against the liability of the district for damages, death, or injury to any person and for damage or loss of property (Education Code Section 35208).

2. School districts are required to insure against the personal liability of their board members, officers, and employees when acting within the scope of their offices or employment (Education Code Section 35208).

3. School districts are permitted to insure against the personal liability of the members of the board or of any officer or employee of the school district as an individual for any act or omission performed in the line of official duty (Government Code Section 990).

4. School districts are not permitted to insure for judgments against an employee for punitive or exemplary damages (Government Code Section 990).

5. School districts may establish a fund for liability losses (Education Code Section 39602).

Definitions of Terms

The following are definitions of terms used in this study:

Agent, insurance - An official representative of an insurance company with limited power to act in behalf of the company. Since the insurer (company) does not usually deal directly with the insured (school district), negotiation is usually carried on through an agent who represents the insurer or through a broker who represents the insured.

Broker, insurance - A representative of the district who assists in placing its insurance business and in carrying on other negotiations with insurance companies. Generally, the insurer (company) does not deal directly with the insured (school district) but acts through an agent who represents the insurer or a broker who represents the insured.

Broker of record - A broker named by the insured as his or her representative in establishing a rate (as an average rate) through a rating bureau. The broker is thereby established as the exclusive representative of the insured in negotiating with the insurance carrier.

Comprehensive liability insurance - Liability insurance written to cover all legal liability exposure except that which is specifically excluded in the insurance agreement. This policy is usually recommended for school district use.

Deductible - The amount a policyholder must suffer as an agreed amount of loss. This amount must be lost first and "deducted" from the total of the damage to determine the amount the insurer must pay; thus, this amount is termed the deductible.

Endorsement - A written agreement added on or attached to an insurance policy and either clarifying the original basic insurance agreement or amending it by restricting or extending its provisions.

Excess carrier/catastrophic liability carrier - An insurer whose policy does not pay until a loss exceeds an agreed amount (excess insurance). Such amount of loss may be insured (primary insurance) or it may be self-insured (self-insured retention, SIR). Many carriers will only provide such excess insurance at a level that will protect a policyholder from amounts of loss that would have a catastrophic impact.

Excess insurance - A provision giving coverage after a policy in a basic amount has been exhausted.

Exclusion - A clause or provision in an insurance contract specifically stating that a defined act, situation, or property does not come within the scope of the risk being assumed by the insurance company.

IBNR - An abbreviation or acronym for the term "incurred but not reported." The values of all happenings that have occurred but have not as yet been reported to the insurer. Such IBNR estimates are based on historical average as impacted by current trends.

Incurred loss - A happening on which a payment is anticipated but final settlement has not yet taken place. The value of such incurred loss includes the estimate of ultimate settlement, including any interim payments.

Insured - The party or organization whose risks are being transferred or assumed through the insurance contract or policy. When a school district takes out insurance, it is the insured party.

Insurer - The insurance company or companies; a business organization licensed by the state to write insurance (i.e., to accept by contractual agreement the transfer of risks for uncertain losses of other individuals or groups of individuals and to make accumulations to meet such losses).

Joint powers agreement - A formal agreement provided for by law (Government Code Section 6500) wherein separate entities may exercise jointly any power they have individually. One entity may share in assumption of losses by another. This device may be used to purchase insurance or provide for uninsured losses.

Liability - The legal obligation to assume responsibility for one's own acts or omissions, including the injury occasioned to another's person or property because of lack of ordinary care or skill in the management of one's property or person.

Liability insurance - Insurance designed to cover some or all aspects of the legal liability exposure of the insured. California school districts are legally liable for the negligence of their employees, officers, and agents, as well as for injury resulting from dangerous or defective conditions of school property. The liability must be covered by liability insurance.

Loss - The amount that an insurer must pay or anticipate paying as a result of a happening against which it has insured. (See also Paid loss and Incurred loss.)

Negligence - Failure to act as a reasonable, prudent person would be expected to act under similar circumstances. Since this definition is subject to very broad interpretations and since the school district is potentially liable for the negligence of its officers and employees, potential exposure of a school district to liability claims is very great.

Package insurance - Multiple coverages combined for rating and coverage purposes.

Paid loss - The amount actually paid in the final settlement of a loss.

Partial self-insurance - Combining the concept of insurance (risk tranference) and self-insurance (risk assumption). The amount of liability/loss (arising from risk) to be self-insured is determined and the remaining liability transferred to an insurer by purchasing an insurance policy.

Rate, premium - The unit charge made for insurance protection, usually quoted as the charge for each $100 of coverage.

Reinsurance - The process whereby an insurer may share risk with another insurer by paying to a sharing insurer a portion of the premium, depending on the share of risk assumed. Reinsurance is an agreement between insurers and does not affect the rights of a policyholder.

Reserve - Funds set aside to provide payment for anticipated losses. (See also Restricted reserve.)

Restricted reserve - A reserve authorized by code which may be used only to pay specific claims. It is maintained as separate from the working funds of the district and may not be drawn upon for any purpose other than loss reimbursement.

Risk - The chance of loss. Specifically, the possible incurring of a liability.

Risk management - The method of minimizing the adverse effects of risk at minimum cost through its identification, measurement, and control.

Self-insurance (permissively uninsured) - The "positive" act of identifying risks and setting aside reserves to meet the anticipated liability/losses arising from such risks.

Tort - Any wrongful act not involving a breach of contract but resulting in personal damages for which civil action may be taken. In contrast to a crime, which is a wrongful act directed against society generally, a tort is a wrong directed against a person or persons. However, an act may at the same time be a crime and a tort; e.g., an injury to a person resulting from another's drunken driving.

California State Department
of Education
Bureau of Management Services
(9-77)

Liability Insurance Survey

Before making any entries on this form, please read carefully the directions on the separate special instruction sheet which is enclosed. Return one copy in the enclosed envelope to: Roland Smith, State Department of Education, Bureau of Management Services, 721 Capitol Mall, Sacramento, CA 95814. (Tel. 916-322-2470), by October 7, 1977.

Legal name of school district

County-District Code

Prepared by | Title | Telephone | Date submitted

LIABILITY	Line	1974-75	1975-76	1976-77	1977-78
Limits of Liability:					
Primary	1	$	$	$	$
Excess—first layer	2				
Excess—second layer	3				
Excess—third layer	4				
Total	5				
Deductible per occurrence (if any)	6				
Premiums Paid:					
Primary	7				
Excess—first layer	8				
Excess—second layer	9				
Excess—third layer	10				
Total	11	$	$	$	$
Insurance Carrier:					
Primary	12				
Excess—first layer	13				
Excess—second layer	14				
Excess—third layer	15				
Is liability part of package policy?	16	☐ Yes ☐ No			

CLAIMS	Line	1974-75	1975-76	1976-77
(a) Number	17			
(b) Amount paid	18			
(c) Reserve	19			
(d) Total incurred (b) + (c)	20			

Largest claim paid at any one time — 21 — $_____ Type of claim: _____

Approximate date of payment — 22 — _____

If you provide home-to-school transportation, is it by — 23 — Contract? ☐ Yes ☐ No

24 — District bus? ☐ Yes ☐ No

Renewal month for district's liability policy — 25 — _____ 41 50

(Please complete reverse side.)

List significant exclusions of coverage:

Remarks:

Other Publications Available from the Department of Education

Liability Insurance in California Public Schools is one of the approximately 400 publications which are available from the California State Department of Education. Some of the more recent publications or those most widely used are the following:

Administration of the School District Budget (1975 edition, including 1977 supplement)	$ 1.75
Administration of the School District Risk Management Program (1977)	2.50
An Assessment of the Writing Performance of California High School Seniors (1977)	2.75
Attendance and Enrollment Accounting and Reporting (1977)	2.80
Bibliography of Instructional Materials for the Teaching of French (1977)	1.50
Bibliography of Instructional Materials for the Teaching of Portuguese (1976)	.75
Bicycle Rules of the Road in California (1977)	1.50
California Guide to Traffic Safety Education (1976)	3.50
California Private School Directory 1977	5.00
California Public School Directory 1978	11.00
California School Accounting Manual (1976 edition, including 1978 revisions)	1.65
California School Effectiveness Study (1977)	.65
California School Lighting Design and Evaluation (1978)	.65
California Teachers Salaries and Salary Schedules, 1977-78 (1978)	10.00
Discussion Guide for the California School Improvement Program (1978)	1.50
District Paid Insurance Programs in California School Districts, 1977-78 (1978)	2.50
English Language Framework for California Public Schools (1976)	1.50
Establishing School Site Councils: The California School Improvement Program (1977)	1.50
Guide for Multicultural Education: Content and Context (1977)	1.25
Guide for Ongoing Planning (1977)	1.10
Handbook for Reporting and Using Test Results (1976)	8.50
A Handbook Regarding the Privacy and Disclosure of Pupil Records (1978)	.65
Health Instruction Framework for California Public Schools (1978)	1.35
Hospitality Occupations Curriculum Guide (1977)	3.00
Physical Education for Children, Ages Four Through Nine (1978)	2.50
Planning Handbook (1978)	1.50
Site Management (1977)	1.50
Social Sciences Education Framework for California Public Schools (1975)	1.10
Students' Rights and Responsibilities Handbook (1978)	1.50

Orders should be directed to:

California State Department of Education
P.O. Box 271
Sacramento, CA 95802

Remittance or purchase order must accompany order. Purchase orders without checks are accepted only from government agencies in California. Sales tax should be added to all orders from California purchasers.

A complete list of publications available from the Department may be obtained by writing to the address listed above.

77-159 03-0734 300 3-78 3,500